

SANFORD PLANNING BOARD MINUTES
MEETING December 17, 2008 – 7:30 P.M.
Town Hall Annex Third Floor Chambers

MEMBERS PRESENT: Robert Hardison, Chair
Kelly Tarbox, Vice Chair
Joseph Herlihy
Gregory Vermette
Gary Morse

MEMBERS ABSENT: Margaret Kleinrock, Secretary (w/notice)

STAFF PRESENT: James Q. Gulnac, AICP, Planning & Development Director
Charles Andreson, P.E., AICP, Town Engineer
Michael Casserly, P.E., Assistant Engineer

STAFF ABSENT: Barbara Bucklin, Administrative Assistant (w/notice)

I. CALL TO ORDER

Chairman Hardison called the meeting to order at 7:30 P.M. Chair Hardison changed the order of the agenda.

II. PUBLIC HEARINGS

1. **File #999-08-T(6): Town of Sanford, c/o James Gulnac, Director of Planning & Community Development.**

Chair Hardison asked staff member Gulnac to overview the request.

James Gulnac, Director of Planning & Community Development, gave a background of how this zone change request was brought before the Planning Board, explained the process of noticing property owners, the process after the Planning Board, and how it would affect future and current property owners, especially of single family homes, in the proposed zone change area.

Chair Hardison asked if anyone present wished to speak in favor of the application.

Brian McEwen, a property owner, explained the reason why he bought his property. He was concerned because the proposed SB zone does not allow any new construction for single-family homes.

Discussion took place on the reason why the zone change was being done, and the difference between the CC and SB zones as they relate to the construction of new single family homes.

John Tanguay, a property owner, has a similar concern to Mr. McEwen. Mr. Tanguay has plans to build a new house in time, and wants to know what his options are.

Discussion took place on the division of his property and the difference in lot size requirements between the CC and SB zones.

James Webb and Frances Hoel, property owners across from Midas Muffler, are concerned because the change would increase the minimum lot size, creating fewer lots, and feels it

would hurt small business. Mr. Webb asked if the CC zone could be modified to accommodate property owners that own a larger parcel.

Carl Gagnon, owner of 53 Country Club Road #1, is speaking in opposition to the zone change. Mr. Gagnon feels drainage issues on Country Club Road #1 would increase.

Michael Patterson, property owner, wants to develop his property on Route 4. Mr. Patterson feels the change is good for the community. His plans for this property do not include residential development. He has concerns on whether or not the change would affect the values of the properties included in the change.

Chair Hardison asked if anyone else wished to speak for or against the application. There was no one.

Chair Hardison closed the public hearing.

Chair Hardison asked Board members if there was any inclination to discuss the matter any further or send the request back to work session for further discussion.

Consensus of the Board was to send the request back to work session and no Board action would be taken at tonight's meeting.

Staff member Gulnac asked what the Priority Group should do with their application.

Consensus of the Board was to have Priority Group proceed with a contract zone application.

2. **File #01-07-R: Edison School, LLP, c/o Dana Libby, PLS, Corner Post Land Surveying, Inc., 2 Mill Street, Springvale, Maine.**

Chair Hardison called for a representative to present the application.

James Gulnac, Director of Planning & Community Development, explained the amendment to the Board.

Chair Hardison asked if anyone present wished to speak in favor of the application; there was no one. Chair Hardison asked if anyone present wished to speak against the application. Again, there was no one.

Chair Hardison asked staff if they would like to add any other comments. No one did.

Chair Hardison closed the public hearing.

Chair Hardison asked if there were any questions from Board members. There were none.

Chair Hardison called for a motion.

Board member Morse made a motion that the Planning Board accept the Finding of Facts (see attached) and find that application file #01-07-R, Edison School, LLC, requesting a revision to the final major subdivision approval of a contract zone application to construct Phases 2 & 3 of a multi-family and mixed use project has been prepared in accordance with the requirements of the Town's Zoning Ordinance and, subject to the conditions listed below, is approved:

- a) The project is subject to the terms and conditions of the Contract Zone Agreement between the applicant and the Town of Sanford.

- b) The applicant will provide two (2) copies of the subdivision mylar for signature by the Planning Board.
- c) The applicant will comply with the provisions of Article 8.3 – Final Approval and Filing.
- d) The applicant will comply with any and all code permit requirements.
- e) The applicant will coordinate any and all onsite construction with the Public Works Department.
- f) Any Certificates of Occupancy will be subject to any applicable conditions in the Contract Zone Agreement and the CEO.

Board member Vermette seconded the motion.

A vote was taken, and the motion passed 5-0.

3. File #999-08-T(7): Town of Sanford, c/o James Gulnac, Director of Planning & Community Development.

Chair Hardison called for a representative to present the application.

James Gulnac, Director of Planning & Community Development, gave the background causing need for this ordinance definition change.

Chair Hardison asked if anyone present wished to speak in favor of the application; there was no one. Chair Hardison asked if anyone present wished to speak against the application. Again, there was no one.

Chair Hardison closed the public hearing.

Chair Hardison had some changes to the proposed definitions (highlighted):

- **Materials Re-use Facility:** (NAICS 562920A) A yard, field or other outside area used to store, dismantle or otherwise handle **and properly dispose of** debris, waste, scrap materials and equipment of various types and classifications. This term does not include garbage dumps, waste dumps, sanitary land fills or junkyards.
- **Motor Vehicle Towing:** (NAICS #488410) This activity comprises establishments primarily engaged in towing light or heavy motor vehicles, both local and long distance. These businesses may provide incidental services such as **short-term** storage and emergency road repair services.

Discussion took place on licensing, and operation monitoring similar to mineral extraction sites.

Chair Hardison asked about the length of time for storage of motor vehicles and the quantity of vehicles on the property. Staff member Gulnac stated these definitions were guidelines. Each request would come in for Planning Board review as a conditional use, and these decisions could be made site specific.

Vice Chair Tarbox asked if all the activities discussed tonight were sufficiently defined. Staff member Gulnac said he felt that the ‘properly disposed of’ change requested by Chair Hardison would cover the types of activities that have been taking place in town.

Staff member Andreson asked Mr. Gulnac if, once these definitions are in place, applications could be submitted to the Board and the focus of the operating manuals would be for the applicant to address the general performance standard requirements in the ordinance, or would there be another set of standards that would be developed.

Mr. Gulnac replied there would be a specific section under each definition that will have general information as to how the operations manual will be developed. This change would be added to the conditional use section of the ordinance.

Discussion took place on the process of getting these changes implemented into the ordinance.

A consensus of the Board was reached to allow staff member Gulnac to continue developing the definitions and guidelines for this ordinance change request.

Discussion took place on vehicle towing/storage lots.

4. File #32-08-RU: Donna Reynolds, d/b/a Tiny Tots Preschool, 17 Carver Street, Sanford, Maine.

Chair Hardison called for a representative to present the application.

Donna Reynolds, owner of Tiny Tots Preschool, stated she was looking to increase the number of children enrolled at her daycare from the current number of eight (8) to between nine (9) and twelve (12).

Chair Hardison asked if anyone present wished to speak in favor of the application. Ms. Reynolds' husband stated she was not adding any more children; she was just becoming compliant with the new ordinance change.

Chair Hardison asked if anyone present wished to speak against the application. Again, there was no one.

Chair Hardison asked if staff or Board members had any comments or questions. There were none.

Chair Hardison closed the public hearing and called for a motion.

Board member Morse made a motion that the Planning Board accept the finding of facts (see attached) and find application File #32-08-RU, Donna Reynolds requesting conditional use approval to operate a family child care facility as an owner-occupied residence licensed with the State of Maine to provide care and instruction for no more than twelve children, has been prepared in accordance with Article XIV Conditional Uses of the Sanford Code and provisions of Title 30-A M.R.S.A. Section 4404 and subject to the conditions listed below, grant approval:

-) The Planning Board made a positive finding that the application meets the standards of Section 280-66.
-) The Planning Board granted the waiver request to permit the review without the submission of a formally prepared site plan.
-) The applicant will pay any and all outstanding review fees.
-) The applicant will conform to any and all construction or building codes and will maintain a license with the State of Maine to operate the family child care facility.
-) The applicant understands and will conform to Section 280-69 Duration of the conditional use approval.

Vice Chair Tarbox seconded the motion.

A vote was taken, and the motion passed 5-0.

5. File #30-08-RU: Jeffrey A. Simpson, Inc., 281 Jagger Mill Road, Sanford, Maine.

Chair Hardison called for a representative to present the application.

Jeff Simpson, applicant, is requesting conditional use approval to operate a wood recycling operation located on Jagger Mill Road.

Chair Hardison asked if anyone present wished to speak in favor of the application; there was no one. Chair Hardison asked if anyone present wished to speak against the application. Again, there was no one.

Chair Hardison closed the public hearing.

Chair Hardison asked staff if they had any other comments.

James Gulnac, Director of Planning & Community Development, explained to Mr. Simpson that the approval the Board may grant tonight would be provisional, not conditional. This is because the ordinance is still under review and has not yet been approved by Town Council.

Chair Hardison asked if the items to be worked out, after the work session, between staff member Casserly and the applicant had been done. Mr. Casserly replied this had been done and was summarized in his memo dated 12/11/08.

Discussion took place on what was agreed upon between the applicant and Mr. Casserly (see attached 12/11/08 memo), the role of the codes enforcement officer for inspection purposes, and the DEP license.

After discussion, it was determined that at this time, there doesn't appear to be a need for a license; but should one arise because of state statute, the issue would be revisited by the Planning Board.

The Board continued going over the last two remaining items in Mr. Casserly's memo once the licensing item was clarified.

Discussion took place on the water quality testing and what should be submitted to the town, and if the request for submission of annual reports for water quality testing to the town should be added to the operations manual or leave it as a finding of facts addition.

It was agreed that this request would be added to the operations manual.

Chair Hardison asked if there were any further questions or comments by Board or staff members.

Staff member Andreson extended an appreciation to Mr. Simpson for his assistance while working through this process.

Chair Hardison called for a motion.

Board member Herlihy made a motion that the Planning Board accept the finding of facts (see attached) and find that application File #30-08-RU Jeffrey A. Simpson, Inc. requesting conditional use approval to update the site plan for his construction, demolition and wood waste facility [materials re-use facility], has been prepared in conformance with the requirements of Article XIV of Chapter 280 Zoning of the Town of Sanford Municipal Code

and Title 30-A MRSA. The property is located on Jagger Mill Road in the IB zone and grant approval subject to the following conditions:

-) The approval is considered “provisional” until the formalization of the recommended revisions to the Zoning Code.
-) The operations will be conducted as described in the Operations Manual and attached site plans.
-) That any approval is subject to any and all additional requirements from the state for any of the various activities on site.
-) That any approval is subject to any and all Town of Sanford code requirements.
-) That any approval is subject to the requirements of Section 280-69 Duration of conditional use approval of the Town of Sanford Municipal Code.
-) The topic of a copy of the DEP reports submitted to the Town will be added to the Operations Manual.

Board member Vermette seconded the motion.

A vote was taken, and the motion passed 5-0.

III. NEW BUSINESS

0. 2009 Meeting Schedule

Chair Hardison called for a motion to adopt the meeting schedule.

Board member Vermette made a motion to adopt the schedule as presented.

Vice Chair Tarbox seconded the motion.

A vote was taken, and the motion passed 5-0.

IV. OLD BUSINESS – None

V. APPROVAL OF MINUTES – August 27, 2008, September 17, 2008, and October 15, 2008, November 12, 2008

Chair Hardison called for approval of the minutes.

August 27, 2008

These were approved at the November Planning Board meeting.

September 17, 2008

Board member Morse made a motion to accept the minutes of September 17th as written.

Board member Vermette seconded the motion.

A vote was taken and the motion passed 5-0.

October 15, 2008

These minutes were not available for this meeting.

November 12, 2008

These minutes were not available for this meeting.

VI. PLANNING DIRECTOR'S REPORT

Staff member Gulnac presented the new application form, informed the Board that he will be presenting an application fee increase in January, reminded the Board that the by-laws will need to be reviewed and adopted, and overviewed the changes to the ordinance he would like to see.

VII. ADJOURN

The meeting adjourned at 8:48 PM.

Attachment to December 17, 2008 Minutes

Finding of Facts for Public Hearing Item #1 File #999-08-T(6): CC to SB Zone Change

- The Planning Board took no action on this request and sent the request back to work session for further review.

Findings of Fact for Public Hearing Item #2 File #01-07-R: Edison School Contract Zone Amendment

- The applicant has standing to submit the application.
- The application is being considered under the contract zone provision of the Town of Sanford Zoning Ordinance, Section 10.4.
 0. Section 10.4 of the Town of Sanford Zoning Ordinance authorizes contract zoning pursuant to Title 30-A M.R.S.A. Section 4352(8). All rezoning under this section shall establish rezoned areas that are compatible with the existing and permitted uses within the original zone. Furthermore, any rezoning or contractual agreement to set up a contract zone may not be authorized if the proposal is found to be inconsistent with the Town's Comprehensive Plan.
-The Planning Board has found that the application is compatible.
 0. The contract zone process requires that the Planning Board conduct a public hearing on the zone change portion of a contract zone application as set forth in Section 4.3 of the Town of Sanford Zoning Ordinance.
-The Planning Board has held the required public hearing.
- Section 10.4.7 – Land Use Reviews Contract Zoning states “Where site plan or subdivision review is required for the use proposed in the rezoning request, the Planning Board may conduct the site plan or subdivision review concurrently with its review of the request for rezoning, and the public hearing required by Section 10.4.5 may be conducted simultaneously with a public hearing conducted as part of site plan or subdivision review. If the Planning Board determines that the proposed development meets such land use approval standards, the Board shall grant preliminary, provisional approval, subject to enactment of the contract zoning amendment by the Town Council.”
- The applicant is proposing a three (3) phase construction project:
 0. Phase I will consist of the renovation of the existing 3-story Edison School building into a multi-unit residential complex with nine (9) 1-bedroom units & six (6) 2-bedroom units;
-The Planning Board has granted final approval for Phase 1.
 0. Phase II will consist of a new retail/office building with a 7,800 square foot footprint;
 0. Phase III will consist of a new 2-story residential building with a 4,608 square foot footprint with sixteen (16) 1-bedroom units. Phase III will also involve the conveyance of 2,561 square feet of property from the Town of Sanford from an adjacent town owned parcel.
 0. The Planning Board reviewed the request by the applicant to provide ten (10) less parking spaces than the ordinance requires. The applicant indicated that many of his clients only have

one car and the need for the additional spaces is not justified. The Board found the applicant's request reasonable and accepted the reduced number of spaces.

- 0. The applicant is requesting to revise the boundary of the contract zone to be contiguous with the parcel boundary.
- No one appeared to speak either for or against the application at the April 18th public hearing.
- The Board held a public hearing on the revision and no one spoke for or against.

Findings of Fact for Public Hearing Item #3
 File #999-08-T(7): Ordinance Definition Change – Tow Lots

- The Planning Board reached a consensus to allow further development of this ordinance change.

Findings of Fact for Public Hearing Item #4
 File #32-08-RU: Tiny Tots Preschool

- Under the revised ordinance recently adopted by the Town of Sanford, this operation would be classified as family child care permitted with site plan review as an owner-occupied residence licensed with the State of Maine that provides care and instruction for between nine (9) and twelve (12) children.
- The applicant has provided verification that they own the property in question and that they are licensed with the State of Maine; therefore they have standing to make the application.
- The applicant has requested a waiver from the requirements to submit a formal site plan and the Planner has indicated he supports the waiver request.
- The Planner's report included a copy of Section 280-66 Standards for conditional use approval and supported the Planner's recommendation that the application met the standards. Furthermore, no specific conditions were recommended.
- Section 280-66 Checklist:

CHECKLIST Section 280-66. STANDARDS FOR CONDITIONAL USE APPROVAL

**File #
&
Name:**

FILE#32-08-RU Day Care

Date: 19-Nov-08

Reviewer: James Gulnac

	STANDARD	COMPLIES	DOES NOT	EXPLANATION
{1}	The proposed use will not place a burden on municipal services which, due to its location or the characteristics of the site or proposed development, is significantly greater than the burden that would result from similar uses in other situations;	YES		
{2}	The proposed use will not create hazards to vehicular or pedestrian traffic on the roads and sidewalks serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, intensity of use by both pedestrians and vehicles, and the visibility afforded to pedestrians and the operators of motor vehicles;	YES		

- | | | |
|-----|--|-----|
| {3} | The proposed use will not cause water pollution, sedimentation, or erosion, contaminate any water supply or reduce the capacity of the land to hold water so that a dangerous, aesthetically unpleasant, or unhealthy condition may result; | YES |
| {4} | The proposed use will not create unhealthy conditions because of smoke, dust, or other airborne contaminants; | YES |
| {5} | The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard, or unreasonably restricted access of light and air to neighboring properties; | YES |
| {6} | The proposed location for the use has no peculiar physical characteristics due to its size shape, topography, or soils which will create or aggravate adverse environmental impacts on surrounding properties; | YES |
| {7} | The proposed use has no characteristics that are atypical of the general category of use that will depreciate the economic value of surrounding properties; and | YES |
| {8} | If located I the Shoreland Overlay Zone, the proposed use will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat; will conserve Shoreland vegetation; will conserve visual points of access to waters as viewed from public facilities; will conserve actual points of access to waters; will conserve natural beauty; and will avoid problems associated with floodplain development and use. | N/A |

Findings of Fact for Public Hearing Item #5

File #30-08-RU: Jeffrey A. Simpson, Inc.

- The applicant has provided proof of ownership of the property in question and has standing to make the application.
- The staff has been working with the applicant to bring the site plan and the operations into conformance with existing state and local requirements.
- The various activities conducted at the site are not clearly defined in the existing Town of Sanford Code. So that Mr. Simpson and the staff have an understanding of what may and may not be considered an “approved” activity, staff is recommending two courses of action.
- The first is the review and approval of the project under the conditional use provision of the ordinance. Included in this process is the review of an operations manual which will describe and define what activities are permitted on the site. Of course any approvals granted under the conditional use review would be subject to any and all state requirements as well as local codes.
- The second activity is a review at the Planning Board of the general category of ‘recycling’ and materials transfer.
- The application was reviewed by the Site Plan Review Committee on November 19, 2008 and at the request of the Planning Director the Committee recommended the application to the Planning Board at the December 3, 2008 work shop. The Planner wanted the application in front of the Planning Board to assist in the discussion of a proposed new definition in the ordinance for operations such as the one Mr. Simpson is presenting.
- The application was reviewed by the Planning Board at their work session on December 3, 2008. Consensus was reached on the following:

- a. Staff has reviewed an Operations Manual prepared by the applicant and finds the manual satisfactory.
 - b. Staff has reviewed, and finds satisfactory, a site plan consisting of two (2) separate sheets; one prepared by St. Germain & Associates, tax map R15, lot 67D; and one prepared by Stevens, Morton, Rose & Thompson Inc, revised by Corner Post Land Surveying, Inc. on November 13, 2008 for tax map R15, lot 67C.
 - c. The Planning Board has discussed with the staff and the applicant various options for a definition of the activity and have agreed to the following: materials re-use facility: A yard, field, or other outside area used to store, dismantle or otherwise handle debris, waste, scrap and materials and equipment of various types and classifications. The term does not include garbage dumps, waste dumps and sanitary fills.
 - d. The Board agreed that it is necessary to make revisions to the existing ordinance to add definitions of usage so that the proposed activity of this application could be better defined.
 - e. The Board acknowledged that a public hearing had been scheduled for the December 17, 2008 Planning Board meeting on proposed revisions to the Zoning Code.
 - f. The Board accepted the staff recommendation that the activity as defined above would be considered as an activity permitted within the IB zone as a conditional use subject to Planning Board review and any and all other state and local regulations with the assumption that the recommended revisions would be accepted by the council and the code revised to reflect the change.
- The Board directed that the application be scheduled for a public hearing and possible vote at the Board's December 17, 2008 meeting. It was further agreed that any approval would be considered as provisional depending upon the council's action on the recommended revisions.
 - The Board has determined that a municipal license is not required at this time unless it becomes state mandated.

Town of Sanford, Maine
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Michael Casserly, P.E.
P.E., AICP
Assistant Town Engineer
of Public Works

Charles J. Andreson,
Town Engineer / Director

Memo To: James Q. Gulnac, Planning Director

From: Michael J. Casserly, P.E.
Assistant Town Engineer



Date: December 11, 2008

RE: File No. 30-08-RU IB Zone
Jeffrey A. Simpson, Inc. Conditional Use Approval of Processing & Recycling Facility
Tax Map R15, Lot 67D (South of Jagger Mill Road),
Tax Map R15, Lots 201 and 202 (North of Jagger Mill Road).
For 12/17/08 Planning Board Voting Meeting

1. **Operations Manual:** Mr. Simpson has submitted a one-page substitution into the Manual which places numerical limits on "incidental" items, as requested by the Board. The specific limits are

for Freon containing appliances, including refrigerators and air conditioners (max 100 units), propane cylinders (max 100), automotive batteries (max 50), and tires (max 3 roll-off containers).

0. **Limits for Other Items:** The site plan delineates specific areas for stockpiles of mixed CDD etc. which are understood to be limited by the footprint of each specific area. Also, several items are specified by the Manual to be stored in containers (so they are not to be left outside if there is no room).

0. **Clarification:** I made an error in my previous memo to the Board on Maine DEP's licensing role, in which I characterized DEP as having a minor role in licensing and enforcement. I spoke with Eric Hamlin of the Maine DEP Solid Waste Bureau, and he clarified to me that, in fact, Maine DEP *did* license the Simpson facility, and that the State licensing and enforcement roles were significant. Mr. Simpson also was hoping to obtain some written documentation from DEP to outline the scope of the Maine DEP License process for a facility like his, for the Town's information. Jeff feels that since he already has a license with the State, that it would be redundant and an undue burden on him to also be required to obtain an annual license with the Town.

0. **Minor Revisions to the Operations Manual:** The Manual contains a provision that allows for Operations Manual minor revisions (as determined by the Planning Director) to be approved by Staff. The Board should be clear and in agreement with this.

0. **Activity Report:** The Board may wish to add two items to the Findings of Facts: (1) The Town's water quality monitoring requirements for this facility are to be identical to those of Maine DEP, and (2) that an annual Activity Report is to be submitted to the Engineering Department. The Activity Report is to include water quality monitoring data from the previous year.

The revision to the Operations Manual appears to be satisfactory and complete to me, and I would recommend in favor of this application as a Conditional Use.